

JONES DAY

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December 1, 2016

VIA EMAIL

Jeff Jordan, Esquire
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

CELA

2016 DEC -2 PM 8:34

FR
ON

Re: MUR 7198
Ron Johnson for Senate, Inc.

Dear Mr. Jordan:

This letter responds on behalf of Ron Johnson for Senate, Inc. and James J. Malczewski, in his official capacity as Treasurer (collectively "Respondents"), to the complaint in the above-referenced MUR. For the reasons explained below, we respectfully request that the Commission follow its action in a similar situation, exercise its prosecutorial discretion and dismiss this matter.

While the Respondents do not dispute the fact that the ad in question included the required written disclaimer at the beginning of the ad but not at the end of the ad, there are several important mitigating facts that show why the Commission should exercise its prosecutorial discretion and dismiss this matter.

First, as Complainants themselves state, the purpose of the disclaimer regulation is to ensure that voters are aware of who is sponsoring the political advertisement. The required written disclaimer language --- "Paid for by Ron Johnson for Senate, Inc. Approved by Ron Johnson" --- was included in clearly readable writing in the advertisement and the costs associated with the ad were properly reported on the Committee's regular reports to the Commission. In addition, Ron Johnson recited the stand by your ad disclaimer in his own voice and the candidate's statement was accompanied by a picture of the candidate that occupied more than 80% of the vertical picture height. As such, at no point were Wisconsin voters denied the relevant information regarding the sponsorship of the advertisement, the cost of the advertisement or the source of the payments to vendors for the ad's production and placement.

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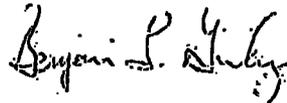
This would be consistent with the Commission's actions in similar instances, where it has exercised its prosecutorial discretion and dismissed complaints regarding matters such as these. *See, e.g.,* MUR 6284 (Denham for Congress) in which the Office of the General Counsel ("OGC") exercised its prosecutorial discretion and dismissed a complaint filed against a candidate committee that aired an ad with the proper disclaimer at the beginning of the ad instead of the end of the ad. In doing so, OGC noted that it did "not appear that the public would have been misled as to who paid for and approved the campaign advertisements" since they included "other identifying information, including the candidate's photograph and voice." General Counsel's Report In the Matter of MUR 6284 Denham for Congress and David Bauer, as Treasurer at 2. In addition, OGC noted that the MUR was scored a "low-rated matter" and therefore, "in furtherance of the Commission's priorities and resources, relative to other matters pending on the Enforcement docket," the matter should be dismissed. *Id.*

Second, Ron Johnson for Senate aired a large volume and number of television advertisements throughout the course of the 2016 election cycle totaling approximately \$10 million. This lone omission was an unintentional oversight in the Committee's otherwise excellent record.

Third, the Complaint was filed in the final week of a closely contested Senate election by American Democracy Legal Fund, a partisan group that routinely files complaints against Republican candidates and committees in order to score political points.

In light of these strong mitigating factors, we respectfully request that the Office of General Counsel exercise its prosecutorial discretion and dismiss this matter.

Respectfully submitted,



Benjamin L. Ginsberg
Megan Sowards Newton

14-0344-0000

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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

CELA

STATEMENT OF DESIGNATION OF COUNSEL
Provide one form for each Respondent/Witness

FAX 202-219-3923

MUR # 7198

Name of Counsel: Benjamin L. Ginsberg Megan Sowards Newton

Firm: Jones Day

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The above-named individual ~~and/or firm~~ is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

12/1/2016 Date [Signature] Signature (Respondent/Agent) Treasurer Title

RESPONDENT: Ron Johnson for Senate, Inc./James J. Malczewski, Treasurer
(Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: 219 E. Washington Ave. , Suite 101
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This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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